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P-435.1

Honorable Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

In a letter dated March 26, 1984, Senator Roberti and Senator Mello requested a performance audit of the workers' compensation program in the Department of Industrial Relations. In partial response to that request, the Office of the Auditor General issued a report entitled "The Workers' Compensation Appeals Board Has Reduced the Length of the Adjudication Process But Does Not Comply With Statutory Mandates" (P-435, May 1984). Senator Mello sent us another letter dated May 15, 1984, requesting additional information. We met with staff from Senator Mello's and Senator Roberti's offices, and, as a result of that meeting, we agreed to provide a letter answering the following five questions.

1. What are the case backlogs for the Workers' Compensation Appeals Board (WCAB) district offices that we visited?

The principal way in which cases become backlogged is in waiting for hearings to be held. Parties submit "Declarations of Readiness to Proceed" to request a hearing. Because the hearing calendars in the district offices are scheduled up to four months in advance, parties experience delays in bringing their cases to hearing. The WCAB conducts two different types of hearings. Conference hearings are used to clarify the issues in a dispute prior to going to trial. Regular hearings are proceedings set to receive evidence. Table 1 below summarizes the waiting time for hearings during fiscal year 1982-83 at the district offices that we visited.

TABLE 1
AVERAGE WAITING TIME FOR HEARINGS
SAMPLE DISTRICT OFFICES

<u>District Office</u>	<u>Fiscal Year 1982-83</u>	
	<u>Conference Hearings</u>	<u>Regular Hearings</u>
Los Angeles	1.7 months	3.8 months
Sacramento	0.9 months	1.0 months
San Jose	1.5 months	3.8 months
Santa Ana	1.8 months	1.9 months

The Labor Code requires that hearings be held within 30 days after the "Declaration of Readiness to Proceed" is submitted. As the table above indicates, only the Sacramento district office is holding hearings within that time frame.

2. What is the average length of adjudication in each of the district offices visited?

To answer this question, we selected a random sample of 100 case files at four district offices. To calculate the length of the adjudication process, we determined the amount of time that elapsed between the date that parties submitted the first "Declaration of Readiness to Proceed" and the date that the workers' compensation judge rendered the decision on the case. When we first audited the WCAB in 1982, we found that the average length of adjudication at the four offices we visited was 12 months. During our most recent audit, we found that the average length of adjudication at those same offices has decreased to 6.5 months. Table 2 below summaries the results for the district offices that we visited.

TABLE 2
AVERAGE LENGTH OF ADJUDICATION
SAMPLE DISTRICT OFFICES

<u>District Office</u>	<u>Cases Initiated in Fiscal Years 1981-82 and 1982-83</u>
Los Angeles	6.0 months
Sacramento	6.6 months
San Jose	7.1 months
Santa Ana	6.8 months

3. Because delays in the adjudication process delay payments to injured workers and to providers of treatment, describe the factors that delay the adjudication process.

In some instances, the parties to the dispute are responsible for delaying the adjudication process. For example, if a case requires more than one hearing, the adjudication process can be lengthened by the amount of time that elapses before parties request another hearing. If parties choose to settle a dispute without a hearing, they can prolong the process if they delay in negotiating and submitting the settlement. Parties can also lengthen the adjudication process by coming to a hearing unprepared. In this instance, another hearing would have to be scheduled, which would further delay adjudication.

The WCAB contributes to lengthening the adjudication process by delays in holding hearings. This problem is discussed in Question 1. The other source of delay occurs when workers' compensation judges do not render their decisions in a timely manner. The Labor Code requires that decisions be rendered within 30 days after a case is submitted for decision. We found that 30 percent of the decisions were not completed within 30 days; they took an average of 61 days to complete. Ten percent of the orders and awards approving settlements were not completed within 30 days; they took an average of 59 days.

4. Why does the Division of Industrial Accidents (division) have so many vacant positions? Would additional judge teams help reduce delays and backlogs?

At the end of March 1984, the WCAB district offices had 17.5 vacant workers' compensation judge positions out of 118.5 authorized positions. The division has not filled some of these vacant positions because, based on the division's budget figures, the WCAB must hold vacant some positions to stay within its personnel budget. These positions were held open because the division had to finance unexpected cost increases for operating expenses, unfunded increases for merit salary adjustments, and unbudgeted expenses for workers' compensation benefits. Finally, the statewide hiring freeze imposed by the Governor in January 1983, prevented the division from filling vacancies that occurred during fiscal year 1983-84.

Additional workers' compensation judge teams would help reduce delays and backlogs in scheduling hearing calendars in some offices. Such teams would produce an increase in the number of hours available for scheduling hearings. However, in our report we do not recommend hiring additional judge teams because we believe that the Division of Industrial Accidents should implement our recommendations designed to improve the efficiency of existing staff before considering the need for additional staff. Furthermore, some district offices may have excess staff that the division could transfer to other offices. For example, we found that the Sacramento office would need one less workers' compensation judge if all the judges in that office were fully scheduled for hearings.

5. Will the budget augmentation for automated equipment proposed for fiscal year 1984-85 by the Department of Industrial Relations contribute to reducing delays in the adjudication process?

The Department of Industrial Relations (department) proposes to spend \$60,000 in fiscal year 1984-85 to purchase 32 memory typewriters for WCAB district offices. The department plans further purchases in subsequent years until it has replaced all 179 of the WCAB's typewriters that are at least 19 years old. The Division of Industrial Accidents reports that it plans to place the new typewriters in those WCAB offices with the heaviest workload. However, the division has not yet identified these offices. These machines will be supplied first to workers' compensation judges' secretaries. As more new typewriters are purchased, they will be given to hearing reporters and other clerical staff.

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The Administrative Director of the Division of Industrial Accidents claims that providing workers' compensation judges' secretaries with new typewriters will reduce delays in typing judges' decisions. In our two previous reports on the WCAB, we found that workers' compensation judges cited the heavy workload of their secretaries in typing decisions as a cause of delayed decisions.

Sincerely,



THOMAS W. HAYES
Auditor General

cc: Honorable David Roberti
President pro Tempore

Honorable Henry J. Mello
Senator, 17th District